

Case No. 8,081. LAPEYRE ET AL. V. GALES.

[2 Cranch, C. C. 291.]¹

Circuit Court, District of Columbia.

April Term, 1822.

PLEADING AND PROOF—VARIANCE—DECLARATION ON BILL OF
EXCHANGE—PARTNERSHIP SHOWN.

In a declaration upon a bill of exchange, payable to Lapeyre, Farrowith, & Co., all the persons composing the firm must be named, with an averment

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that they were joint partners, or joint traders, under the name and firm of Lapeyre, Farrowith, & Co., otherwise the bill of exchange cannot be received in evidence.

Assumpsit against the acceptor of an inland bill of exchange, payable to Messrs. Lapeyre, Farrowith & Co., or order. The declaration stated that the defendant [Joseph Gales, Jr.] was attached to answer John Lepeyre, Andrew Farrowith, Emanuel Burckle, Lawrence Faures, and Daniel H. Mandeville, in a plea of trespass on the case; whereupon the said plaintiffs by John Lookerman, their attorney, complain, &c., stating that the bill was drawn by one William M. Sawyer, upon the defendant, payable to the said plaintiffs, or order, &c., and that in consideration thereof, the defendant promised to pay to the said plaintiffs, the sum in the bill specified, &c.

On the trial, Mr. Wallach, for defendant, objected to the bill of exchange being given in evidence, because the declaration does not aver that the plaintiffs were joint merchants, or traders, trading under the name or firm of Lapeyre, Farrowith & Co., nor that the bill was made payable to the plaintiffs by that name.

THE COURT (THRUSTON, Circuit Judge, absent), rejected the bill.

The plaintiff had leave to amend; a juror was withdrawn, and the defendant confessed judgment.

¹ [Reported by Hon. William Cranch. Chief Judge.]